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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/283,561	04/01/1999	JAMES R. H. CHALLENGER	YO999-011(87	1201

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EXAMINER
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ART UNIT	PAPER NUMBER
2179	

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	**Applicant(s)**
Advisory Action ***After the Filing of an Appeal Brief***	09/283,561	CHALLENGER ET AL.
	Examiner Doug Hutton	**Art Unit** 2179	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 02 May 2005 is acknowledged.

1. ☐ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will <u>not</u> be entered because:

 a. ☐ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).
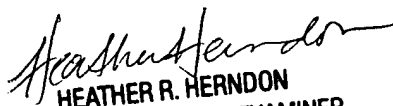
 b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
  , See 37 CFR 41.33(d)(2).

2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

 Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☒ The reply is entered. An explanation of the status of the claims after entry is below or attached.

4. ☒ Other: *See Continuation Sheet*

HEATHER R. HERNDON
SUPERVISORY PATENT EXAMINER
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Continuation of 4 Other: Arguments with regard to objections:

Applicant argues that the claim objections are improper because the claim language at issue is crystal clear and there is no basis for examiner's confusion regarding the claim language and use of the term "object." Applicant argues further that there is no basis for examiner's request to limit the claims by replacing "objects" with "web pages." Applicant also argues that the language of Claims 23 and 49 are wholly supported by the specification. See Applicant's Request for Reconsideration -- Page 9, second and third paragraphs.

Firstly, the examiner explained why the term "object" in Claims 16, 42 and 53 causes confusion by stating that "the term 'objects' is used extensively throughout the claims to describe different elements of the present invention" on Page 3, Lines 10-12 in the Final Rejection dated 27 January 2005. For example, Claim 16 recites "providing a plurality of objects, including compound objects" in Line 3. Later, Claim 16 recites "if two compound objects are constructed from at least one common changed fragment, then the compound objects are placed in a same group" in Lines 3-5. As currently recited, it is unclear whether the "two compound objects" in Line 4 are part of the "compound objects" in the "plurality of objects" in Line 2. If so, then the claim should clearly state that the "two compound objects" in Line 4 are part of the "compound objects" in the "plurality of objects" in Line 2. Also, Claim 16 recites "plublishing all objects belonging to a same group together" in Line 6. As currently recited, it is unclear whether the "objects" in Line 6 are part of the "plurality of objects" in Line 2. If so, then the claims should clearly state that the "objects" in Line 6 are part of the "plurality of objects" in Line 2. In other words, as currently recited, it is unclear whether all of the "objects" recited in Claim 16, Lines 3-6, are part of the "plurality of objects" recited in Claim 16, Line 2. The above discussion is the "basis for examiner's confusion" regarding use of the term "objects" in the claims.

Secondly, in making the objections to Claims 16, 42 and 53, the examiner suggested that Applicant amend "the term "objects" in Line 1 of the claims to -- web pages -- in order to clarify the scope of the claims. This was only a suggestion, and Applicant is not required to do this.

Thirdly, both Claims 23 and 49 recite "when a node n1 is examined, for a node n2 which has changed and for which an edge from node n2 to node n1 exists, constructing a union between a set including node n2 and a set including changed fragments used to construct node n2" (see Claim 23, Lines 6-8 and Claim 49, Lines 7-9). This language is not supported by the specification because this limitation is not discussed in the specification. Specifically, the specification fails to mention at least: 1) "examining" a "node n1;" 2) a "changed" "node n2;" and 3) sets that include "node n2" and "changed fragments used to construct node n2." If the examiner is wrong, then Applicant can easily obviate this objection by indicating where in the specification, by page numbers and line numbers,these elements of the limitation are discussed.

Arguments with regard to "inherency" and Darnell:

Applicant argues that Darnell does not inherently disclose "partitioning at least some of the plurality of objects into a plurality of groups such that if two compound objects are constructed from at least one common changed fragment, then the compound objects are placed in a same group," as alleged by the examiner. Applicant supports his argument by quoting the final summation of the examiner's complete explanation of how Darnell inherently discloses the limitation and stating that the examiner's position is pure speculation and surmise. Applicant contends that if the examiner has specific knowledge as to the functionalities of Dreamweaver 1.2, then the Applicant requests that the examiner provide a sworn affadavit attesting to his knowledge and explaining in detail how the claimed "partitioning" is included in Dreamweaver 1.2 or inherently disclosed in Darnell. See Applicant's Request for Reconsideration -- Page 9, fifth partial paragraph through Page 10, second full paragraph.

Firstly, the examiner fully explained in the Final Rejection dated 27 January 2005 how Darnell inherently discloses the limitation. The examiner will repeat it here for Applicant's convenience. Dreamweaver includes "web page parts" in a "library," as clearly indicated in the cited text. These "library items" are used in construction of web pages for a website and may be edited, as clearly indicated in the cited text. These edited "library items" are the "changed fragments." Dreamweaver allows the user to edit multiple "library items" and update all web pages at once, as clearly indicated in the cited text. In this "atomic" update of the web pages, Dreamweaver searches through all of the web pages for the website and updates all of those pages containing the edited "library items," as clearly indicated in the cited text. In order to do this, Dreamweaver must inherently "place compound objects having a common changed fragment into a same group" in that, for each edited "library item," Dreamweaver will determine which web pages of the website contain said edited "library item." In doing this, Dreamweaver has "[partitioned] at least some of the plurality of objects into a plurality of groups such that if two compound objects are constructed from at least one common changed fragment, then the compound objects are placed in a same group." See Darnell, Pages 117-123.

Secondly, Applicant admits that Darnell discloses "an update process which is performed by searching through pages of a selected web site for library items, and updating any items that are found with current contents from the library." See Applicant's Request for Reconsideration -- Page 10, first full paragraph, second sentence. This update is the "atomic"

update discussed in the examiner's full explanation of how Darnell inherently discloses the limitation. Thus, Applicant should be able to at least understand the examiner's position with regard to how Darnell inherently discloses the limitation. Applicant certainly need not agree with the examiner's position, but Applicant should at least understand the examiner's position.

Thirdly, the examiner does not have any "specific knowledge" as to the functionalities of Dreamweaver 1.2. Rather, the examiner was simply using a common sense approach. That is, the examiner did not base the rejections on facts within the personal knowledge of the examiner. See 37 C.F.R. 1.104(d)(2). Thus, the examiner need not provide a sworn affadavit.

Arguments with regard to "inherency" and Ferrel:

Applicant argues that the combination of Darnell, Ferrel and Cormen fails to disclose or suggest "constructing at least one graph, the at least one graph including nodes representing objects in the plurality of objects and edges for connecting nodes having relationships, at least some of the edges being derived from at least one consistency restraint" because the examiner's reliance on Ferrel to "inherently" teach this limitation is misplaced. Applicant supports his argument by asserting that acyclic graphs are known to have ordered (directed) edges, but this is not the same as edges derived from "consistency constraints." See Applicant's Request for Reconsideration -- Page 11, fourth full paragraph through Page 12, first partial paragraph.

The examiner fully explained his position in the Final Rejection dated 27 January 2005 regarding how Ferrel inherently teaches the claim limitation. The examiner will repeat it here for Applicant's convenience. Ferrel expressly teaches that an acyclic graph is a way of "storing related and ordered objects in a data structure." See Column 9, Lines 30-31. The edges in acyclic graphs are not different from edges "derived from consistency constraints" and Applicant fails to explain how or why these edges are different and fails to support his assertion with analysis or evidence.

The phrase "consistency constraints" reads very broadly. In the Specification of the present invention, three "consistency constraints" used for publishing web pages include the following:
1) A newly updated Web page should not contain hypertext links to older pages which have not been updated yet.
2) A newly updated Web page should not contain hypertext links to pages which have not been created yet.
3) In many cases, a Web site should not have some of the pages reflecting current information while other pages reflect older information. Instead, it is desirable to publish all updated pages containing current information in one atomic action. See Specification - Page 1, Lines 17 through Page 2, Line 7. The examiner cannot find any further definition of the phrase "consistency constraint" in the Specification.

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). In the above definitions, "consistency constraint" is most broadly defined in the third definition. That definition explicitly states that any publication of updated web pages should occur in one atomic action. This implies that any relationship or order that applies to the objects making up the web pages will be used during publication of the web pages. Thus, in view of the Specification, the broadest reasonable interpretation of the phrase "consistency constraint" is any relationship or order that is imposed upon objects of web pages that will affect the publication of said web pages.

Ferrel discloses a multimedia publishing system that publishes web pages comprising various objects. Ferrel expressly states, "The natural way of storing related and ordered objects is in a data structure, such as an acyclic graph" (see Column 9, Lines 30-31). Thus, Ferrel discloses that objects of web pages may be placed into an acyclic graph, where the relationships and order of said objects are maintained. These relationships and order of the web page objects impose a "consistency constraint" on any update of the web pages comprising the objects in that the acyclic graph will be consulted to determine how ("relationships") to update the objects and when ("order") to update the objects.

Moreover, "edges" of an "acyclic graph" inherently are derived from a "consistency constraint" in that, when a graph is topologically sorted, the "topological sort" follows the edges and automatically imposes "consistency constraints." This is how a "topological sort" is done. For example, a topological sort of an acyclic graph results in an ordering of its nodes along a horizontal line so that all directed edges go in one direction. The disputed claim language, as it currently reads, simply describes in more detail the acyclic graph expressly disclosed in Ferrel.

Accordingly, Ferrel discloses "constructing at least one graph, the at least one graph including nodes representing objects in the plurality of objects and edges for connecting nodes having relationships." .